

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARIUS STEPHEN MCNAIRY,)
)
Petitioner,)
) 1:22-CV-752
v.) 1:14-CR-8-2
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER AND JUDGMENT

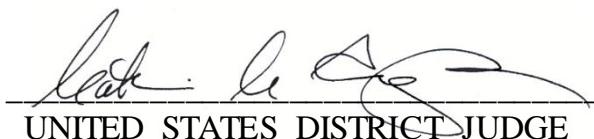
The Recommendation of the United States Magistrate Judge was filed in accordance with 28 U.S.C. § 636(b) and the Clerk served the recommendation on the petitioner. No objections were filed, though the petitioner has since filed a corrected motion to vacate on the proper forms. *See* 14-CR-8-2 at Doc. 71. That motion remains pending. The Court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that the motion filed at Doc. 68 is **DENIED** and the related civil action, 22-CV-752, is filed and dismissed *sua sponte*, all without prejudice to the petitioner's motion at Doc. 71 or other appropriately filed petition which corrects the defects cited in the Magistrate Judge's Recommendation.

The § 2255 motion at Doc. 71 remains pending.

A certificate of appealability shall not issue.

This the 13th day of October, 2022.



LEAH D. SIGER
UNITED STATES DISTRICT JUDGE